

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Application Serial No. 77/630,608
Filing Date December 10, 2008
Applicant Lone Wolf Distributors, Inc.
Law Office..... 113
Trademark Attorney Kristin M. Dahling
Attorney's Docket No. LO46-102
Mark: TIMBER WOLF

RESPONSE TO MARCH 14, 2009 OFFICE ACTION

To: Commissioner for Trademarks
P.O. Box 1451
Alexandria VA 22313-1451

From: Robert C. Hyta (tel. 509-624-4276; fax 509-838-3424)
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ARGUMENT

The present application for registration of the mark "TIMBER WOLF" has been refused because of likelihood of confusion with the registered mark "TIMBER WOLF" (3200103). The present application has been amended to elect class 9 with the description of goods and services as: "Firearm components and accessories, namely, handgun frames, handgun grips, and handgun laser pointing devices". Applicant requests the Examiner reconsider the likelihood of confusion rejection based on the amendment to the present application for registration and the following remarks relating to evaluation of the likelihood of confusion between the pending mark and the

3200103 mark.

In order to establish likelihood of confusion the marks, the conditions surrounding the marketing of the marks must be such that they would be encountered by the same purchasers under circumstances that would give rise to the mistaken belief that the goods and/or services come from a common source. Attached hereto is a specimen of an advertisement used to market the "TIMBER WOLF" firearm components of the present application for registration as well as advertisements from the online "BUDK" catalog used to market the "TIMBER WOLF" pocket knives of registration 3200103, as well as search results of the channels used to market the pocket knives. As you can see, the pocket knives are marketed exclusively in cutlery catalogs; the knives are not marketed in gun catalogs, gun accessory catalogs, and/or handgun catalogs.

This is understandable since the goods of the present application for registration are directed to handgun components. It is important to recognize that handguns are firearms, and that firearms are unique in that their marketing and sales is closely watched by a separate agency of the Federal government, the ATF. This establishes a marketing channel different than marketing channels of other weapons, such as bows, or even knives, which are not regulated by the ATF. It is also important to consider that handguns, while they may be used in hunting, are primarily utilized for self defense and for marksmanship, but as compared to other firearms, rarely for hunting. Even beyond this, the applicants mark is directed at a

specialized category of handguns, handgun components.

The registered mark is for pocketknives, not hunting knives, or spears, or even bows, the classic bladed hunting equipment, but pocketknives. Pocketknives are marketed to children and adults alike, they are available for purchase without permit, application, or approval. While pocketknives can be used for hunting, so can kitchen knives, butcher knives, and all manner of cutlery. The link between pocketknives and hunting is tenuous as made evident by the marketing channels used by the registrant for their goods and services. As you can see for the attached search, the registrant primarily markets its goods in cutlery catalogs, not hunting catalogs. So, while some have registered the same marks for both firearms and knives, in this case of likelihood of confusion being evaluated, it is unlikely that purchasers of the applicant's goods, those searching for handgun components, will come across the goods of the registrant in a cutlery catalog.

Further, the applicant's goods are handgun components. Purchasers of handgun components are sophisticated in the respect that they looking to modify a handgun they already own or plan on purchasing. This is not a knee-jerk purchase of handgun, the purchaser is looking to modify a gun and as such they are sufficiently sophisticated to understand the components of a handgun and/or how to exchange components. Please understand that handguns can be extremely dangerous when used by those with little or no experience. Those looking to modify components of handguns are surely


aware of the safety precautions necessary to insure that components will compliment their current handgun and that these components will be safe when utilized. This level of sophistication makes it unlikely that they will confuse pocketknives with the components they are considering for their handgun.

For at least the reason the purchaser of handgun components is sophisticated and that pocketknives are marketed via different channels than handgun components, the applicants mark cannot be considered confusingly similar the registrants mark. To hold otherwise would be to extend the tenuous link between handgun components and pocketknives beyond that which is fair and reasonable. Applicant requests the application for registration proceed toward publication for opposition and looks forward to receiving notice of same.

Respectfully submitted,

LONE WOLF DISTRIBUTORS, INC.

Dated: 9/14/09.

By: 
Robert C. Hyta
Reg. No. 46,791